



Economic and Social
Council

Distr.
GENERAL

E/C.12/1990/SR.36
11 December 1990

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifth session

SUMMARY RECORD OF THE 36th MEETING IN 1990

Held at the Palais des Nations, Geneva,
on Monday, 3 December 1990, at 10 a.m.

Chairman: Mr. KOUZNETSOV

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The meeting was called to order at 10.15 a.m.

STATEMENT BY THE UNDER SECRETARY-GENERAL FOR HUMAN RIGHTS

1. Mr. MARTENSON (Under-Secretary-General for Human Rights) expressed regret at being unable to attend the opening meeting of the session.
2. The world had clearly made some promising advances in human rights, particularly during the past year, as the Secretary-General had noted in his latest report to the General Assembly (A/45/1, section VI). The Secretary-General's observations provided a clear expression of the high place human rights occupied within the thinking of the United Nations. The international human rights treaty system was at the core of the Organization's programme and the Committee on Economic, Social and Cultural Rights played a leading role within the system which would become even more important as the number of ratifications of the Covenant increased. Since the Committee's previous session, four more States - Burundi, the Republic of Korea, Malta and Somalia - had ratified the Covenant, bringing the total number of ratifications or accessions to 98. At the same time, there was no cause for complacency for, as had been noted in the report of the third meeting of persons chairing the human rights treaty bodies (A/45/636), the goal of achieving the universal applicability of the principal instruments remained far from being achieved (para. 52). Moreover, the fact that the importance of human rights was receiving greater international recognition must not be allowed to obscure the reality of the continued massive and widespread violations of human rights. The challenge to the international community to promote and ensure respect for human rights was indeed greater than ever.
3. The Centre for Human Rights was seeking, within the means at its disposal, to respond to that challenge as energetically as possible. In addition to intensifying efforts in support of the implementation of human rights norms, it was also increasing its information and educational activities and the provision of advisory services and technical assistance. The General Assembly decision of 1988 to launch a World Public Information Campaign on Human Rights had greatly enhanced the possibilities of collaboration with all the governmental and non-governmental organizations concerned with human rights at both the national and international levels.
4. Under the Centre's technical assistance programme, in 1990 the Asian and Pacific Regional Workshop on International Human Rights Standards had been held in Manila; a European meeting on the Optional Protocol had been held in Canada; national training courses on the implementation of human rights and the administration of justice had been organized in Uruguay and Paraguay; and, in co-operation with the Governments of the Soviet Union and the Ukrainian SSR, a European workshop on international human rights standards had been held in Kiev. The Centre was planning to organize various national workshops in the near future, for example a workshop in New Delhi on the rights of the child, particularly girls, for administrators of justice in India.
5. With reference to article 10 of the Covenant on special measures of protection and assistance to be taken on behalf of all children and young persons, he was glad to report that the Convention on the Rights of the Child, which had been opened for signature only in January 1990, had entered into force on 2 September - the fastest completion on record of the entry-into-force

procedure for a human rights treaty. To date, a total of 130 States had signed the Convention and 55 had already ratified or acceded to it. The first meeting of States parties to the Convention was scheduled to take place in February 1991 and the Committee on the Rights of the Child was expected to become operational shortly thereafter. The speedy ratification of the Convention and the recent World Summit for Children signalled an opportunity for turning international legal norms into reality for children all over the world - an objective which should be pursued with the greatest vigour by the United Nations.

6. He was aware that the role of the human being in the development process was of particular concern to the Committee on Economic, Social and Cultural Rights, whose general comment No. 2 had noted the need to establish operational mechanisms for putting into practice the general principles on that subject. Because of its leadership role in that field, the United Nations had the important responsibility of aiding States to incorporate human rights principles in their development activities and the Commission on Human Rights, both in 1989 and 1990, had invited Member States to make provision in national development policies and programmes for resources to ensure the promotion and protection of human rights. There was a growing awareness of the inescapable interdependence of all human rights and of the important role that development had in promoting respect for them. The Declaration on the Right to Development adopted by the General Assembly in 1986, whose preamble described development as a comprehensive economic, social, cultural and political process, provided the basic framework for relating economic and social progress to respect for human rights and vice versa. With a view to assisting in the implementation of that Declaration, the Centre for Human Rights had organized a Global Consultation on the Realization of the Right to Development as a Human Right, held in January 1990. The Consultation's agenda had covered a wide range of relevant subjects, and over 25 experts, a significant number of them from developing countries, had participated in the meeting, together with 10 United Nations bodies or agencies, two regional organizations and 40 non-governmental organizations. Fifty-three States had sent observers. The Consultation had reached conclusions on the content of the right to development, human rights and development strategy, obstacles to the implementation of the right, and criteria for measuring progress towards its attainment. Recommendations had been made concerning action by States, international bodies and non-governmental organizations. Particular stress had been laid on democracy, as essential to true development, and on popular participation.

7. In accordance with the recommendations of the Committee on Economic, Social and Cultural Rights and of the Global Consultation, a particular effort had been made to ensure that human rights were taken into account at the major international development meetings held in 1990, including those relating to the preparation of the new International Development Strategy. In March 1990, he had drawn the attention of the ACC Task Force on Long-term Development Objectives, and of the Ad Hoc Committee of the Whole for the Preparation of the International Development Strategy, to the Committee's general comment No. 2 and the conclusions and recommendations of the Global Consultation. In April 1990, those matters had also been drawn to the attention of the General Assembly's special session on international economic co-operation. Reference to human rights issues had also begun to appear in documents relating to development as, for example the Programme of Action adopted by the

Second United Nations Conference on the Least Developed Countries (Paris, September 1990), the resolutions of the special session of the General Assembly on international economic co-operation and the preparatory work for the Fourth Development Decade. Human rights should also constitute an important element in the 1992 Conference on Environment and Development. At the national level, government responsibility for designing and implementing programmes to improve the enjoyment of human rights and to ensure all the benefits of the right to development should constitute an important part of each country's overall development strategy. When requested, appropriate assistance should be made available through the programme of advisory services and technical assistance in the field of human rights. The Centre for Human Rights had launched an effort, in co-operation with the United Nations Development Programme, to formulate human rights-related projects and it was exploring the possibility of similar co-operation with other development programmes and agencies. One possible measure to strengthen the capacity of the United Nations to deal with the integration of human rights into the development process would be to elaborate a new approach allowing the Economic and Social Council to discharge its role in the co-ordination of United Nations economic and social development activities in such a manner that development issues and human rights issues related to development would be considered together. Another measure would be to include every year, on the agenda of the Administrative Committee on Co-ordination, an item relating to the role of human rights in the development process. He had also suggested that the expert members of the Committee on Development Planning might wish to discuss issues relating to human rights and development with their expert counterparts of the Committee on Economic, Social and Cultural Rights, the Human Rights Committee and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

8. Turning to the report of the third meeting of persons chairing the human rights treaty bodies, held at Geneva in October 1990 (A/45/636), he highlighted the following conclusions and recommendations, which seemed to be of special interest:

The consolidated guidelines for the initial part of State party reports under the various treaties should be added to the relevant guidelines as soon as possible (para. 65);

The UNITAR manual on reporting should be published as soon as possible and be widely disseminated (para. 66);

The Secretary-General and the General Assembly should do their utmost to ensure that more resources were provided for secretariat servicing of the treaty bodies (para. 55);

Steps should be taken to promote greater interaction among the treaty bodies (para. 57);

The committees concerned should, in preparing general comments on topics of potential relevance to the provisions of an instrument supervised by another body, consider undertaking some form of consultation before finalizing the text (para. 59);

The General Assembly should institutionalize the meeting of chairpersons and ensure that it was held at least once every two years (para. 58);

The supervision of new human rights treaty obligations should, as far as possible, be entrusted to one or other of the existing treaty bodies (para. 61);

The work of the treaty bodies should be fully reflected in the agenda of the proposed world conference on human rights, and the treaty bodies should be consulted, as far as possible, about preparations for the conference (para. 67);

Each United Nations Information Office should make available at the national level copies of reports submitted by the State concerned, along with the summary records relating to the examination of those reports (para. 69);

In addition to training programmes on reporting and the implementation of other State party obligations under human rights instruments, regular training programmes should be arranged for officials of United Nations bodies and agencies involved in technical co-operation programmes (para. 75).

9. The Third Committee had before it a draft resolution proposing the adoption of the report of the third meeting of the chairpersons. The Committee would be kept fully informed about future developments relating to the implementation of the chairpersons' recommendations.

10. In order to improve the efficiency of the treaty bodies, it was important to provide each of the committees concerned with information about the activities of other United Nations organs dealing with similar issues. During its previous session, he had been able to review with the Committee on the Elimination of Racial Discrimination, recent developments in that field, including the work carried out within the United Nations. He had also discussed a number of specific issues with that Committee - for example, whether it wished to propose to the General Assembly further in-depth studies or specific action on particular themes relevant to its work; whether the Committee might bring to the Assembly's attention, with a view to taking preventive steps, situations which might cause serious future problems; and how the Committee's reports could be organized so as to strengthen its ties with the Assembly.

11. How could closer relations with other bodies, like the Sub-Commission, that dealt with similar issues be achieved? Could the chairpersons prepare succinct reports on the activities of such bodies and on the major themes being dealt with? Could joint meetings on common topics be envisaged? The Committee on the Elimination of Racial Discrimination and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had both requested that a one-day joint meeting between them should be organized in 1991. The Centre for Human Rights had also arranged for the Chairman of the Sub-Commission's Working Group on Detention to brief the Committee on Crime Prevention and Control on the Sub-Commission's activities relating to the protection of detainees.

12. Another element in making the work of the treaty bodies more effective as far as national practice was concerned was ensuring that relevant information was easily accessible to decision-makers and other interested persons. Perhaps the analysis of each country's report could be presented as a separate

part of a treaty body's report to the Assembly. The analysis, together with the country report itself, relevant information from the specialized agencies, and perhaps the summary records of the discussion, could then be combined in one document to provide an easy-to-use review of the situation. The main part of that committee's report to the Assembly could draw attention to overall trends, areas of achievement and matters which needed further attention. A system of indexing and cross-referencing could be developed to make it easier to locate the discussion of similar points in the reports of various countries.

13. Finally, a fundamental dilemma in the treaty system would have to be addressed: responsibility for implementation was divided among various bodies, yet human rights were so deeply interdependent that it was not possible to understand the enjoyment of one right without a knowledge of the situation regarding the others. The Committee on Economic, Social and Cultural Rights itself had already done some pioneering work in that complex field of interdependence.

14. In 1989, the General Assembly had requested views from Governments, United Nations bodies, specialized agencies and non-governmental organizations on the holding of a world conference on human rights. With two exceptions, all the replies received by the Secretary-General had been favourable to convening such a conference. Many replies had stated that a world conference on human rights should focus on further improving international co-operation and strengthening the effectiveness of the United Nations system for the promotion and protection of human rights. The new prospects for progress resulting from the recent favourable changes in international conditions had also been underlined.

15. There had been wide agreement that the success of such a conference would depend in large measure on its preparation. Broad consultations had been called for, and the importance of the involvement of human rights expert bodies, the specialized agencies, other organizations dealing with human rights, the academic community and non-governmental organizations had been stressed. The preparations could also include the elaboration of specific recommendations for consideration by the world conference. A draft resolution on a world conference, sponsored by 70 Member States, had been submitted to the General Assembly, and it was hoped that it would be adopted by consensus.

16. The work before the Committee at its current session was important. Reports from a number of countries facing varied conditions for the protection of economic, social and cultural rights were to be considered. He reiterated his wishes for a most successful session and his assurances that the Committee would have his full support and assistance, as well as that of his colleagues in the Centre for Human Rights.

17. Mr. SIMMA recalled the Committee's long-standing desire for a documentation room. At the previous session of the Committee, Mr. Martenson had said that steps were being taken to carry out the project. A documentation room was badly needed by the members of the Committee and other bodies.

18. Mr. MARTENSON (Under-Secretary-General for Human Rights) said that he shared Mr. Simma's wish for a documentation room, and that the Centre for Human Rights was doing its best to fulfil that and other desiderata. The Centre had recently been restructured so as to make it even more efficient

within its limited financial means. Moreover, a resolution requesting additional human and other resources was currently before the Third and Fifth Committees of the General Assembly, and would be voted upon shortly. The problem was not one of goodwill but of extreme lack of resources. However, the Swiss Government was now constructing a new building which, it was hoped, would resolve the problem of shortage of office space.

19. The CHAIRMAN thanked the Under-Secretary-General for Human Rights for that information and expressed the hope that the Centre would indeed be able to meet the desire of the Committee mentioned by Mr. Simma.

ORGANIZATION OF WORK (agenda item 4) (continued)

20. The CHAIRMAN asked whether the Committee wished to take up the three reports of Panama that were pending consideration.

21. Mr. RATTRAY asked how many times the reports of Panama had been scheduled for discussion and how many times a delegation from that country had failed to appear before the Committee.

22. The CHAIRMAN replied that, of the three Panamanian reports, consideration of two had been postponed twice and consideration of one had been postponed once.

23. Mr. MARCHAN ROMERO recalled his already-stated view that, in the light of the information received from the Permanent Mission of Panama, the Committee should accede to the request of the Panamanian Government to postpone consideration of the reports until its next session. The reports of Panama in no way reflected the latest developments in that country; moreover, as one member had pointed out, they ought to be discussed when more members of the Committee were present. There were differences between the cases of the Afghan and Panamanian reports: examination of the former had been postponed five times, whereas the examination of the latter had been postponed no more than twice. It was necessary to avoid double standards. Furthermore, the note verbale from the Permanent Mission of Afghanistan requesting a postponement had merely stated that a report would be submitted shortly, whereas the Permanent Mission of Panama had solemnly promised to present a report at the Committee's next session.

24. Paragraph 307 of the Committee's report on its fourth session (E/1990/23-E/C.12/1990/3) stated that the Committee might decide, on the third occasion that a State party's report was scheduled for consideration, to proceed with the examination of the report even in the absence of the State party representative. Since Panama had postponed the presentation of its report on only two occasions, it should be given the opportunity of presenting its report at the following session.

25. Mr. SIMMA endorsed the views of Mr. Marchan Romero. There were indeed differences between the cases of Afghanistan and Panama, justifying differential treatment. Moreover, the Permanent Mission of Panama had indicated that it was in possession of a 50-page document updating the reports, which could not, however, be processed in time for the Committee's current session. He therefore believed that the Committee should defer consideration of the reports of Panama until its next session.

26. Mr. MRATCHKOV said that, in suggesting a discussion of the issue of presentation of reports, he had been prompted by a concern that the Committee should take a well-founded decision. In the light of the discussion, he realized that the situation of Panama differed from that of Afghanistan and could therefore agree to postpone consideration of the reports of Panama until the Committee's next session.

27. Mr. WIMER ZAMBRANO agreed that it would be desirable to postpone consideration of the Panamanian reports. That would allow time for the submission of further documentation that would doubtless show that human rights in Panama had been violated by United States troops and would probably give details of the acts of vengeance that usually took place following a violent change of government.

28. The CHAIRMAN said that, if there was no objection, he would take it that consideration of the reports of Panama should be deferred until the Committee's next session.

29. It was so decided.

CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Luxembourg (E/1990/5/Add.1) (continued)

30. At the invitation of the Chairman, Mr. Lommel (Luxembourg) took a place at the Committee table.

31. Mr. NENEMAN said that practically all the members of the Committee had considered that, for an initial report, Luxembourg's report was too short, insufficiently informative, and focused too much on legislation and not enough on the position regarding the actual implementation of economic, social and cultural rights. As a result, the Committee had been unable to make a meaningful assessment of the situation on the basis of the report and had even been given the impression that economic, social and cultural rights were poor relations of civil and political rights in Luxembourg. Moreover, the report had contained no reference to article 15 on the right to culture.

32. However, the detailed and well-documented oral replies given by the delegation of Luxembourg to the many questions put by the members of the Committee had largely filled the gaps in the report. The Committee had been given a very useful country profile, albeit with greater emphasis on the political than on the social and economic situation. The delegation of Luxembourg had also promised to submit supplementary written information in January 1991.

33. Some concern had been expressed by members as to the integration of the Covenant into the internal legal system in Luxembourg, particularly since it had been stated that the Covenant was not directly applicable in that country. While accepting the delegation's statement that the rights in the Covenant were guaranteed in practice, members of the Committee had nevertheless stressed that internal law must be compatible with the Covenant.

34. The reference made to the situation of Belgium was unfortunate in view of that country's poor record of reporting on economic, social and cultural rights.

35. It was fair to say that, as one member of the Committee had put it, human rights were in good shape in Luxembourg.

36. Mr. GLAIEL endorsed those remarks. There was indeed a contrast between the rather unsatisfactory written report and the high calibre of the oral replies, although some of the points made were not relevant to the Committee's concerns.

37. Mr. SIMMA fully agreed with the comments made by previous speakers. In Luxembourg, a comprehensive set of internal laws covered all aspects of the implementation of economic, social and cultural rights, yet the country's stand on the constitutional status of those rights was at variance with what some members of the Committee considered to be the proper attitude. Questions about the disparity between Luxembourg's treatment of the Covenant and of the European Convention on Human Rights had been raised during the discussion, and the answer given had reaffirmed the point that Luxembourg did not regard the Covenant as self-executing. Yet the Covenant contained a number of provisions that were seen, by the majority of observers, as being directly applicable: for example, those on non-discrimination, the right to strike and the right to primary education free of charge. Since Luxembourg's legislation entirely fulfilled the country's obligations under the Covenant, however, the question was not one of paramount importance.

38. Mr. KONATE endorsed the comments made by Mr. Neneman and Mr. Sinma. He asked the representative of the International Labour Organisation whether the conditions applying to the right to strike, as outlined in paragraph 27 of the report, actually attenuated that right. By requiring prior negotiation, the relevant legislation made it extremely difficult, if not impossible, to call a strike, and the fact that a National Conciliation Office had first to establish that all conciliation procedures had been exhausted made the exercise of the right even more difficult. He believed that that position was at variance with article 8 of the Covenant.

39. Mr. MRATCHKOV agreed with the conclusions put forward by Mr. Neneman and with the comments made by previous speakers. There was a great disparity between the dry, legalistic report and the rich fund of information in the oral presentation. One had to wonder why such a report had been produced; he believed the Committee should lay stress in future on the procedure for preparing country reports.

40. He had asked the Luxembourg delegation about direct application of the Covenant, and had not been content with the reply. Luxembourg's domestic legislation covered economic, social and cultural rights very well, and the question of whether or not the Covenant was directly applicable was therefore of largely theoretical importance. However, the legal arguments adduced by the delegation, including the opinions of the Belgian State Council and the High Court of Luxembourg, had not been convincing.

41. Mr. SPARSIS agreed with the conclusions expressed by Mr. Neneman. In the supplementary information to be provided by Luxembourg, a number of important questions would have to be addressed, including that of ratification of the

ILO Labour Relations (Public Service) Convention, 1978 (No. 151). Twenty to twenty-five per cent of all employment was in that sector, which not only established the standards applicable to salaries and conditions of employment but also the principles of industrial relations. More information should be provided on the actual machinery for collective bargaining and for the exercise of the right to strike in the public sector, and on the arrangements for ratification of collective agreements negotiated in the public sector by the Executive and later ratified by the Legislature.

42. Mr. RATTRAY endorsed the conclusions outlined in Mr. Neneman's statement. Although the report had not permitted a realistic assessment of the enjoyment of economic, social and cultural rights, the supplementary oral information had filled most if not all of the gaps. Yet he still had the impression that economic, social and cultural rights were not given the same emphasis as other human rights. The conceptual framework for their enjoyment and, specifically, their applicability on the same basis as the rights set out in the European Convention on Human Rights, required further study.

43. One particular provision of the Covenant in respect of which more progressive implementation would be welcome was article 12. The Luxembourg delegation had acknowledged that little was being done in the field of preventive health care because such measures were deemed too expensive.

44. Mr. DAO (International Labour Organisation), replying to Mr. Konate's question about the right to strike, noted that paragraph 27 of the Luxembourg report indicated that some strikes could be considered "legitimate and lawful" and that conciliation procedures had to be exhausted before the right to strike could be exercised. Under the ILO Conventions, there were some strikes that could be regarded as unlawful: for example, in the area of essential services, which were defined restrictively as those whose stoppage would jeopardize the life, health and welfare of the population. Concerning the requirement of prior recourse to conciliation procedures, he said that the ILO supervisory bodies had always considered that the relevant ILO standards were violated when compulsory conciliation or arbitration would rule out the possibility of engaging in a strike action. However, according to paragraph 27 of the report, the requirement was for exhaustion of conciliation procedures and establishment of failure to agree. That did not preclude workers from subsequently engaging in strike action. The measure was thus acceptable under the relevant ILO standards.

45. The CHAIRMAN announced that the Committee had completed its concluding observations on the initial report of Luxembourg. He thanked the Luxembourg delegation for participating in the Committee's work and said he was sure that the second periodic report would be an improvement on the initial one.

The meeting rose at 11.50 a.m.



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Distr.
GENERAL

E/C.12/1990/SR.37
7 December 1990

Original: ENGLISH

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Fifth session

SUMMARY RECORD OF THE 37th MEETING IN 1990

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on Tuesday, 4 December 1990, at 10 a.m.

Chairman: Mr. KOUZNETSOV

CONTENTS

Consideration of reports

- (a) Reports submitted by States parties in accordance with articles 16 and 17
of the Covenant (continued)

Ecuador

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CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17
OF THE COVENANT (continued)

Ecuador (E/1986/3/Add.14, E/1988/5/Add.7)

1. At the invitation of the Chairman, Mr. Santos, Mr. Apunte Franco and Mr. Salvador-Crespo (Ecuador) took places at the Committee table.

2. Mr. SANTOS (Ecuador), introducing his country's initial reports concerning rights covered by articles 10-12 of the Covenant (E/1986/3/Add.14) and rights covered by articles 13-15 of the Covenant (E/1988/5/Add.7), said that Ecuador was the most densely populated country in Latin America. Its internal migration was the most intensive in the developing world, and the population of its two major cities numbered 1 million and 1.5 million respectively. With regard to the population structure, he said that mountain dwellers had been moving towards the coast in search of a better life. Ecuador was an exporter of cocoa, coffee, bananas and oil, and the search for employment gave rise to interregional migration. The urban population had increased as a result of problems that had emerged in rural areas due to the structure of agriculture, land tenure and land use. In that connection, he said that the Agrarian Reform Act passed in 1964 had abolished precarious forms of land tenure and use and had made it possible to improve productivity. However, there were still smallholdings which continued to use outmoded cultivation techniques resulting in soil erosion.

3. One of the most serious problems with respect to development was how to create a social, economic and cultural context in which all people in Ecuador could find self-fulfilment in equal conditions. In that regard, he said that development planning in his country dated back to 1954 and that it was a pioneer in that area.

4. Ecuador faced considerable economic problems, including a large foreign debt. From 1945 to the early 1960s, the Latin American countries and Ecuador in particular had had a high level of development but, starting in the 1970s, they had begun to register a negative trend in GNP and a decline in economic growth. Attention should also be drawn to the problems of trade imbalance, the drop in oil prices and decreased earnings from exports of cocoa, rice and bananas.

5. He stressed the importance of the efforts made by the Andean Group to promote the process of regional integration and trade liberalization. In addition, co-operation agreements were being drawn up by the Group to tackle problems in education, health and migration.

6. During the "lost decade" Ecuador had learned much, and new democratic possibilities were opening up. Under some régimes and during certain fascist phases, human rights had been infringed. At the present time, nearly all Latin American countries were moving towards democracy, and social co-operation was much more dynamic.

7. One of the most important elements in the planning process was international co-operation for development. His country had been greatly helped by the United Nations, in particular UNDP. Much had been done by UNICEF to aid children in his country. UNESCO had also helped considerably in the protection of his country's cultural heritage.

8. He noted that a plan of action to combat poverty had been drawn up at a recent Latin American conference held in Quito. When more than 50 per cent of the population lived below the poverty line, and there was illiteracy, disease, high infant mortality and malnutrition, it was necessary to find a development model which would bring about economic growth and, at the same time, a more just income distribution. An essential element in that search was international co-operation. There could be no full economic development unless the gap between North and South and between the various segments of society was closed.

9. The CHAIRMAN thanked the representative of Ecuador for his introductory statement and invited him to address the questions on articles 10-12 of the Covenant raised in the list of issues prepared by the pre-sessional Working Group (E/C.12/WG/1990/CRP.3/Rev.1).

10. Mr. SANTOS (Ecuador), referring to section I of the list of issues on the framework within which the Covenant was implemented, and more particularly to question 1 on the amount and percentage of international co-operation within GNP, said that Ecuador's experience had varied but that co-operation by the majority of industrialized countries had been disappointing. There was currently a reverse transfer of resources: Ecuador's external debt stood at \$11 billion and the amount paid in debt-servicing roughly equalled the amount of the debt itself. Prices of strategic commodities - for example, until recently, the price of oil - had dropped and the general instability of all commodity prices hampered planning and caused severe budget and fiscal imbalances. With the additional problem of rising inflation, it was impossible to regard international co-operation, even including credits from the World Bank, UNDP and the Inter-American Development Bank, as constituting a substantial element of GNP. At best, such co-operation had amounted to 0.5 per cent of GNP and at worst to 0.3 per cent; it had never approached a figure consistent with the moral obligations of the developed countries. Furthermore, foreign investment was insufficient to complement domestic savings and the result had been a marked overall fall in investment. In the 1970s, Brazil and Ecuador had had the highest growth rates in Latin America but those rates had tumbled in the 1980s and all the current indicators were regressive. In the 1970s, the development investment rate in Ecuador had exceeded the 25 per cent figure generally regarded as critical for development take-off. It was now only 12 per cent: Ecuador was exporting more and more to generate less and less income, and imports had been reduced. That had stifled development and international co-operation was merely a palliative.

11. In response to question 2 on the manner in which aliens were guaranteed protection of the rights covered by articles 10-12 of the Covenant, he said that national legislation did not discriminate in any way between aliens and Ecuadorians.

12. As to how the indigenous population benefited from the rights established in those articles (question 3), he referred to the historical legacy of colonialism and neo-colonialism which had led to Ecuador being described as a

modern country superimposed on a very backward country. It was said that in Ecuador a person could travel 10 kilometres in distance and three centuries in time, going from modern cities to the abject poverty of nearby shanty towns. The President of the Republic had stressed the importance of ameliorating the situation of the indigenous population, stating that although the problems of Ecuadorian Indians, which had accumulated over centuries, still persisted, there had been a change of attitude in that indigenous people were now treated as human beings and their rights recognized. The President had set up a Commission on Indigenous Affairs, with offices adjacent to his own, which met weekly with indigenous organizations. During the preceding two years, an unprecedented amount of land, together with credits from the National Development Bank, had been allocated to indigenous communities. New roads had been constructed in rural areas and others upgraded, and telephone networks had been installed. Considerable resources had been allotted to irrigation and flood control works, to rural electrification and to the provision of drinking water to small communities. Special attention had been paid to education: bilingual cultural programmes had been introduced under which instruction in eight indigenous languages was given in cultural centres. There were 1,523 bilingual schools and 1,866 adult education centres, employing 6,000 teachers. Integrated family health schemes covered 350,000 rural inhabitants, child care had expanded and the coverage of the social security system was constantly being extended. Ecuador's long experience of rural development, for which it had often received technical co-operation from neighbouring countries, had shown that land reform and credits for agricultural inputs were in themselves insufficient, as was concentration on meeting basic needs. Popular participation was essential in order to achieve integrated rural development. Education was the vital element in enhancing the quality of human lives. In the 1940s, the illiteracy rate had probably been between 60 to 70 per cent of the population, although accurate statistics were lacking. That rate was currently about 8 per cent and it was hoped that by the year 2000 there would merely be residual illiteracy. It was felt in his country that education and full participation were the keys to development. The commemoration of 500 years of European influence in the Americas provided an opportunity to denounce racial discrimination against indigenous populations which had led to their exploitation all over the world. In Ecuador, 30 per cent of the population belonged to indigenous groups. The President had stated that in his opinion the uprising of 4 June 1990 had been directed not against the Government but against a centuries-old system of exploitation.

13. Turning to question 4 relating to the reasons for limitations imposed on the exercise of the rights established in articles 10-12 of the Covenant and to violations of those rights, he said that current social conditions were such as to impose all sorts of limitations on human rights, particularly those of women and children. It was often said of developing countries that national legislation was advanced, being patterned on that of the more developed countries, but that that legislation - for example, regulations prohibiting child labour - frequently remained a dead letter. The fact was that it was impossible to solve social problems merely through legislation. The best way of preventing human rights violations was to overcome underdevelopment. In that connection, reference might be made to the inadequate transfer of resources. The money spent on the construction of one nuclear submarine, for example, could improve the lot of hundreds of thousands of underprivileged children. Moreover, he felt that there was a need for a change in current thinking, which was obsessed by the mechanisms of the free

market to the exclusion of long-term economic strategy. Implementation of economic, social and cultural rights would not progress until the perverse economic trends of the previous decade were reversed.

14. Turning to section II of the list of issues on protection of the family, mothers and children and offering a preliminary answer to question 5 which called for a number of statistics, he recalled that a recent study by ECLAC on poverty in Ecuador had observed that, where social statistics were most urgently required, they were generally absent. Ecuador had some statistics going back some 30 years which were used for planning purposes. Although it currently collected fewer statistics than in more prosperous days, the situation had recently improved and work was proceeding on a population and housing census which was expected to yield much information about the final phase of the lost decade of the 1980s. It was true that in a country where 50 per cent or more of the child population lived below the poverty line, social statistics tended to be depressing. A pilot project which covered 50,000 or so such children could scarcely be hailed as a great achievement but, rather, served to indicate the magnitude of the task ahead.

15. Mr. APUNTE (Ecuador), responding to the request in question 5 for statistics about the percentage of pregnant women receiving assistance and the percentage of the population protected by social security, said that figures were available for various aspects of mother and child care for the years 1980 to 1989. He would give the total number and the percentage covered in the different groups for the years 1980 and 1989. In 1980, the number of pregnant women assisted had been 23,094, or 8.6 per cent, and in 1989 it had been 50,970, or 14.3 per cent. In 1980, the number of nursing mothers assisted had been 28,620, or 11.8 per cent, while in 1989 the corresponding figures had been 49,640 and 15.7 per cent. The number of children at risk assisted in 1980 had been 29,932, or 14.3 per cent, and in 1989 it had been 44,288, or 15.9 per cent. The number of malnourished children assisted in 1980 had been 37,920, or 9.7 per cent, and in 1989 it had been 70,500, or 12.2 per cent. In 1980, 21 per cent of the economically active population had had social security coverage; in 1989 the figure had been 22 per cent, and it was estimated that the figure for 1990 would be 22.3 per cent.

16. Mr. SANTOS (Ecuador), replying to question 6 on measures intended to protect the family, said that co-ordinated action had been taken by the Ministry of Education and the Ministry of Public Health to provide school meals in primary schools. Moreover, day nurseries had been set up to facilitate the entry of women into the labour market.

17. Although progress was being made in providing post-natal and antenatal care for women, there was a great disparity in the availability of services as between urban and rural areas. Coverage among the urban population was 70 per cent, whereas coverage varied from 1 per cent to 40 per cent in rural areas. Approximately half the female population concerned, therefore, did not receive such services and as a result the infant mortality rate was high.

18. In reply to question 7 concerning measures to ensure that the benefits of mother and child care reached women working in the informal sector of the economy and women living in indigenous communities, he said that one of the major barriers to population control was illiteracy and ignorance. Government health centres set up with great effort were often underutilized. The poorest members of the population, especially in the indigenous communities, simply

did not go to their local hospital because they were ignorant of what it offered. Paradoxically, proposals were sometimes made to turn underutilized hospitals into tourist centres.

19. Mr. APUNTE (Ecuador), replying to question 8 on working regulations for domestic service, said that a special chapter in the Ecuadorian Labour Code dealt comprehensively with that matter. Articles 257-266 defined domestic service and contained regulations on modalities and remuneration. Contracts for domestic service could not be of more than one year's duration without written permission from an Employment Judge.

20. There were articles defining conditions of cessation of service, rest and vacation periods, the mutual obligations of employer and employee, and the employer's obligations to provide food, housing and education. On the death of an employer the heirs became responsible for the domestic servants of the deceased.

21. The CHAIRMAN drew attention to the Committee's decision at its third session that the time allocated to replies on reports should be limited to 45 minutes. He therefore requested the representatives of Ecuador to be as brief and specific as possible.

22. Mr. SANTOS (Ecuador), replying to question 9 on the situation with respect to abortion, said that, since abortion was a criminal offence in Ecuador, clandestine abortions were frequent. The inadequate facilities for such operations, including a lack of blood supplies, led to an increase in mortality rates.

23. Mr. APUNTE (Ecuador) added that article 441 of the Ecuadorian Penal Code set out the penalties for abortion. Article 447, however, provided that no penalty would be imposed in cases where the mother's life could only be saved by an abortion and when the consent of the woman or her husband or close relatives was given. Moreover, abortion was allowed in the case of the rape of a mentally deficient woman.

24. Mr. SANTOS (Ecuador), replying to question 10 on statistical data on working children and question 11 on the percentage of working minors, said that, since Ecuadorian legislation prohibited minors from working, the relevant questions were not asked in censuses and thus there were no statistics on the true number of working minors. In reality there were children who worked, for instance as newspaper vendors and itinerant peddlars.

25. With the introduction of universal primary education, the percentage of children who worked had fallen, particularly in rural areas, but a new problem had arisen, namely the generation gap between backward parents and their more educated children. As a result many children dropped out of school and left their homes in rural areas for the cities, where they fell victim to exploitation, sometimes becoming prostitutes or delinquents, and worked in dire conditions.

26. The Ministries of Health, Social Welfare and Education had set up a pilot project entitled "Operación Guambra" ("Operation Children") under which such children were asked to suggest ways in which the authorities could help them. That project had achieved some limited success.

27. In reply to question 12 on special measures to reduce the number of abandoned children and to protect minors from economic exploitation and ill-treatment, he said that the key measures had been the spread of free primary education and the combating of illiteracy, to which Ecuador had devoted tremendous efforts.

28. In connection with question 14 on special measures for the care and education of handicapped children and juvenile delinquents, he said that the Ministry of Education provided sports facilities and creative activities for such persons, with encouraging results. The aim of the juvenile courts was to achieve the social rehabilitation of delinquents, but unfortunately the problem of juvenile delinquency was increasing with the population explosion in the big cities and the slums.

29. Replying to question 15 on the extent of juvenile drug addiction and government programmes for the care of juvenile drug addicts, he said that juvenile drug addiction was a new problem which had spread from the North. The authorities had set up a programme of lectures and films in schools to acquaint students with the dangers of drug-taking and provided juvenile addicts with medical help.

30. Concerning the right to an adequate standard of living covered by section III of the list of issues and to question 16 on food agreements, he said that Ecuador had many technical co-operation agreements and that food security was a primary objective of the Andean countries. Some good results in combating malnutrition had been achieved through the provision of school meals and a return to old patterns of food consumption, but unfortunately malnutrition, a concomitant of poverty, was still rife, and further efforts were required to solve the problem.

31. With regard to question 17 on programmes and measures to control the population explosion, he said that a population policy was essential in Ecuador, the most densely populated country of Latin America, in order to encourage parents to have only as many children as they could educate, feed and maintain properly. The National Development Council was responsible for that policy, which had been outstandingly successful. The birth rate had dropped considerably.

32. Replying to question 18 on legislation on communal and co-operative production, he said that the community played a vital role in Ecuadorian life. As a result of co-operative effort Ecuador had been able to convert its banana production to a new variety meeting international demand and had recovered its position as the world's largest banana exporter. Co-operative assistance had also been given when the Panama hat industry had collapsed, throwing thousands out of work.

33. In reply to question 19 on credit and technical assistance for peasants, he said that Ecuador had many systems of support and credit for co-operatives, including that of the Handicrafts and Agriculture Development Bank. Credit and technical assistance for farmers was given under the system of integrated rural development to which he had already referred.

34. Concerning question 20 on the amount of the minimum living wage in United States dollars, he noted that, as a result of devastating inflation, the minimum wage in Ecuador had been halved. The informal sector in

Latin America had expanded, and very few people in Ecuador actually earned the minimum living wage of \$50 a month which already did not go far to meeting basic needs. Ecuador was, in fact, paying for its foreign debt with hunger.

35. In reply to question 21 concerning the percentage of persons currently homeless or inadequately housed, he said that there was a great deal of makeshift housing in Ecuador because of the tremendous growth of suburbs and city slums. Makeshift dwellings were put up overnight, often over stagnant water, for land was expensive and not always accessible. The resulting health problems probably cost more than a proper policy of land acquisition, and planning was needed to cope with the acute problem of housing.

36. Mr. APUNTE (Ecuador) said that the housing shortage in 1989 had been estimated at 572,000 units in urban areas and 468,000 units in rural areas, making a total of 1,040,000 units.

37. Replying to question 24 on guarantees provided in Ecuadorian legislation for the protection of tenants, he said that an Act of 1972 provided two safeguards for tenants. Rents could not exceed one twelfth of 10 per cent of the commercial value of a building, and leases could not be terminated or rents raised solely at the landlord's discretion.

38. Mr. SANTOS (Ecuador), replying to question 25 on the percentage of the population lacking essential services, said that enormous efforts had been made, in the context of Ecuador's environmental sanitation programme, to improve drinking water and drainage, especially in major urban areas. The growth of those areas had outstripped the progress made in provisionment, and projections for the future showed that the efforts would be largely insufficient. Thanks to the imaginative co-ordinating efforts of the National Institute of Sanitation Works, an average of 60 per cent of urban areas were now provided with drinking water and drainage.

39. In no area had greater efforts been made than in electricity provision. Ecuador was rich in water resources, and major hydroelectric projects had made available a source of energy that, unfortunately, was often underutilized. Small plants and innovative designs had brought electricity to large portions of both urban and rural areas. The electrification programme had greatly facilitated the work of artists in connection with the Decade for Artists. Finally, Ecuador was in the forefront of Latin American countries in respect of rational water use.

40. Turning to the questions in section IV of the list of issues (Right to physical and mental health) and specifically to question 26 on the percentage of the population receiving medical attention through the social security scheme, he said the Ecuadorian Social Security Institute was one of Latin America's strongest housing finance institutions and had even provided technical assistance to other countries of the region. The coverage, however, was only 2 out of 10 applicants, and further efforts obviously needed to be made.

41. Concerning comparative indicators of the health system and the number of centres in urban and rural areas (question 27), he said that so many health centres had been established in recent years that hospitals and clinics were apparently being underutilized.

42. Replying to question 28 regarding the initiatives and activities promoted by the National Institute for the Child and the Family, he said it was stepping up its efforts under the leadership of the wife of Ecuador's President.

43. The percentage of undernourished children receiving supplementary food (question 29) remained high. It had been observed that the number of school breakfasts made available was insufficient.

44. On question 30, life expectancy had risen in Ecuador, as it had in many developing countries, thanks largely to preventive and therapeutic medical techniques and mass immunization campaigns. New problems were now emerging, however, including the "greying" of the population. While that situation attested to the success of efforts to curb population growth, it also created a need for new services to minister to the needs of the elderly.

45. Mr. APUNTE (Ecuador), replying to question 32 on government policy to facilitate the purchase of medicines for the underprivileged sectors, said a programme on family health and generic drugs had specifically targeted the disadvantaged urban and rural populations. Under the programme, 313,000 family health centres had been established, and their services had been used by 925,000 people. One hundred and seventy eight physicians, 184 nurses and 50 obstetricians had been recruited. Important aspects of the programme were price and quality control and manufacture and sale of medicines. Savings achieved through price controls would be translated into benefits for the consumer. A programme for provision of medicines free of charge to individuals under 15 years of age was being implemented. There was also a programme for control of priority diseases such as malaria and tuberculosis. Based on an assessment of the patient's economic situation, partial subsidies were paid for hospital stays. A programme for the production of generic drugs was aimed at providing quality medicines at lower cost.

46. Mr. SANTOS (Ecuador), addressing question 33 on Ecuador's ecological problems, said his country was one that truly knew the meaning of environmental preservation. Its natural beauty and riches were a deeply cherished part of its heritage. Yet the fertility of the land was threatened by the encroachment of human populations and by major industrial projects, which often resulted in deforestation and the modification of traditional farming techniques to achieve a higher financial return. The situation was not as desperate as in other Latin American countries, but soil degradation and erosion were becoming a problem. The ecological challenge was thus one of the most important facing Ecuador, and it was to be hoped that the forthcoming United Nations Conference on Environment and Development would help to achieve a world-wide equilibrium in the use of environmental resources.

47. He wished to thank the Committee for the opportunity to provide an overview of the situation in his country and to respond to the detailed questions that had greatly helped in the preparation of his presentation.

48. The CHAIRMAN invited the delegation of Ecuador to take up the list of issues concerning rights covered by articles 13-15 of the Covenant (E/C.12/WG/1990/CRP.4/Rev.1).

49. Mr. APUNTE (Ecuador), beginning with section II on the right to education and, more particularly, question 4 on the illiteracy rate among adults, said that the most recent census, for 1982, showed 728,815 individuals over the age of 15 as being illiterate - in other words, 16.1 per cent of the adult population. Projections for 1988 indicated that the proportion would be 13.9 per cent of the adult population. The literacy campaign was widely recognized to have been responsible for that progress.

50. Concerning enrolment in primary schools in urban and rural areas (question 5), he said provisional data for 1989 indicated that 1,950,000 students had been enrolled in primary schools and 759,000 in secondary schools. The figures on the number of teachers in 1988 were: 60,025 in primary schools and 54,402 in secondary schools.

51. Regarding question 6, the drop-out rate in 1989 had been 25.9 per cent in primary schools - 16.8 per cent in urban areas and 33.8 per cent in rural areas.

52. Mr. SANTOS (Ecuador) said that the drop-out rate was one of Ecuador's most important problems, but efforts were being made to address it.

53. Ecuador's university system, which had been in place nearly as long as had those in Europe, was almost too excellent: the number of students had undergone an exponential growth, with a consequent danger of reduction in the quality of education.

54. One reason for the high drop-out rate at all educational levels was that many students, especially in rural areas, were obliged to work. Ecuador was implementing a programme to enable them to combine work and studies.

55. Referring to the textbook subsidy for primary education (question 7), he said the Ministry of Education implemented such a programme and one for the provision of textbooks free of charge. Unfortunately, the bureaucratic machinery was not always flexible enough and textbooks were often supplied only in a limited number of distribution centres.

56. Concerning question 8, on government measures to remedy the lack of schools in marginal urban areas, he said not only the Government but communities as well had been working towards the objective of establishing a school in every population centre, no matter how small. Although the number of schools was growing, the facilities were often underutilized because they were situated too far away from students' homes. The country's magnificent yet rugged terrain created serious problems for the transport of students.

57. In response to question 9 about various aspects of primary, rural and bilingual education, he said the qualitative aspect of educational programmes was just as important as the quantitative aspect. Education could be used as a force for social change and as a means of preserving cultural identity. The very content of education had to be re-examined: traditional farming and industrial techniques that had been more ecologically viable might have to be reintroduced, for example.

58. Replying to question 10 on the earnings of primary school teachers, he said they were 20 to 30 United States dollars more than the minimum living wage of 50 dollars a month.

59. As to whether secondary education was considered pre-university education (question 11), he said that it was. Ecuador had a diversified educational cycle and sought to encourage students to take courses outside their main field of study.

60. Concerning question 12 on enrolment at secondary and higher levels, he said it was on the rise at both levels, and that coverage was among the highest in Latin America.

61. In response to question 13 on distribution by public and private sector of existing universities, he said that in accordance with the Constitution, Ecuador's universities were predominantly public, but private universities also played an important role. In 1989, 70 per cent of all students had been enrolled in public universities and 30 per cent in private institutions. As mentioned earlier, one of the disadvantages of universities in the public sector was that massive enrolment tended to decrease the quality of instruction.

62. Turning to question 14, he said that university education was heavily subsidized by the Government, and citizens paid only a very small share of the cost.

63. On aid from scholarships and educational loans (question 15), he noted that a great many Ecuadorian students were enrolled in universities abroad. Although it was hoped that such enrolment would train students to contribute to the country's development efforts, foreign study often resulted in a brain drain, which was a serious problem.

64. Referring to section III on article 15 (Right to take part in cultural life), and specifically to question 16 on measures taken by the Government to preserve indigenous cultures, he mentioned the activities connected with the Decade for Artists. As to question 17 on the effects of international co-operation on economic, social and cultural rights, he referred to programmes carried out with support from UNESCO, UNIDO, UNDP and the World Bank.

The meeting rose at 1.05 p.m.